

REMARKS

Claims 1-3, 5-12 and 14-36 are pending in the present application. Claims 1-3, 5, 8-12, 14, 17-26, 29 and 30-36 were rejected under 35 USC 103(a) as being unpatentable over Edgar '590 in view of Ross et al. '471. Claims 6, 7, 15, 16, 27 and 28 were rejected under 35 USC 103(a) as being patentable over Edgar '590 in view of Ross et al. '471, further in view of Edgar WO '397.

With reference to the rejection of the pending claims under 35 USC 103(a) based on the primary reference to Edgar '590, first, it is noted that the present application has a U.S. filing date of December 31, 2000 and claims the benefit of a provisional application filed on December 30, 1999. Therefore, the present application was filed after November 29, 1999.

As such, and in view of 35 USC 103(c) as amended by the American Inventor's Protection Act (AIPA) (enacted November 29, 1999), the reference to Edgar '590 does not qualify as prior art in obviousness rejections under 35 USC 103. This is due to the fact that Edgar '590 and the present application were commonly owned, or subject to an obligation of assignment to the same entity (Applied Science Fiction) at the time the invention of the present application was made.

Therefore, since Edgar '590 is removed as a prior art reference, the rejection of claims 1-3, 5-12 and 14-36 based on the combination of Edgar '590 and Ross et al. '471; and Edgar '590, Ross et al. '471 and Edgar WO '397 should be withdrawn.

In view of the above, favorable reconsideration of the present application is therefore requested.

Respectfully submitted,



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